

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant : Koichi SATO Confirmation No. : 1314
Appl. No. : 09/824,248 Examiner: J. M. Villecco
Filed : April 3, 2001 Group Art Unit: 2622
For : CONTINUAL - IMAGE PROCESSING DEVICE

REPLY BRIEF UNDER 37 C.F.R. §41.41

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Appeal Brief - Patents
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Examiner's Answer, dated November 2, 2006, to the Appeal Brief filed August 8, 2006, Appellant submits the present Reply Brief.

Appellant maintains that each reason set forth in the Appeal Brief filed August 8, 2006 as to the patentability of the pending claims is correct and again respectfully request that the decision of the Examiner to reject claims 9-10 and 12-16 be reversed and that the application be returned to the Examining Group for allowance.

REMARKS

The Grounds of Rejection at pages 3-8 of the Examiner's Answer indicates that the rejections are as set forth in the Final Official Action mailed on February 27, 2006. It is respectfully submitted that the Appeal Brief filed August 8, 2006 has fully addressed the requirements for patentability of the pending claims under 35 U.S.C. §103. Accordingly, the herein-contained remarks are merely supplemental to the Appeal Brief filed on August 8, 2006. In order to facilitate review of this Reply Brief, the present remarks are limited to a discussion of the independent claims of the present application.

Rejection of Claims 9-10 and 12-14 Under 35 U.S.C. §103(a) over ANDERSON in view of SHIOJI

Independent claim 9 recites features of an electronic still camera that includes "a memory... that stores, for each of a plurality of discrete images sequentially obtained in a continual still image photographing operation in which the plurality of discrete images are taken at an interval time set by an operator, a unique indicator that indicates whether said discrete image was sequentially recorded in the continual still image photographing operation". The electronic still camera of claim 9 also includes "a determination processor that determines whether the plurality of discrete images were obtained in said continual still image photographing operation. Finally, the electronic still camera of claim 9 includes "an image processor that continually reproduces said plurality of discrete images, as a common operation on said plurality of discrete images, at a same interval as that of said continual still image photographing operation, when it is determined, using said unique indicator, that said plurality of discrete images were obtained in said continual still image photographing operation".

ANDERSON discloses a method and system for controlled time-based image group formation (see the Title). The method and system of ANDERSON relates images captured during an image capture session to form a user-specified time-based group (see the Abstract). The method and system of ANDERSON use image tags (see column 6, lines 9-18) with parameters including a length of the image capture session and a time between captures (see column 7, lines 15-30).

ANDERSON contemplates that images will be captured by an imaging device 114 as shown in Figure 1 and Figure 2. The imaging device 114 in ANDERSON is a component of a camera 110. A removable memory 354 serves as an image data storage area, and ANDERSON contemplates that the removable memory 354 will allow a user to replace a full removable memory 354 with an empty removable memory (see column 4, lines 17-24). Finally, an I/O 348 permits an external host computer (not shown) to connect to and communicate with computer 118 of the camera 110 (see column 4, lines 6-12).

As acknowledged in the Examiner's Answer, ANDERSON does not disclose the determination processor or the image processor recited in claim 9. However, the Examiner's Answer asserts that it would be obvious to modify ANDERSON to include the determination processor and the image processor recited in claim 9. Further, the Examiner's Answer asserts that such a determination processor and an image processor are disclosed in SHIOJI. In this regard, the Examiner's Answer asserts that both ANDERSON and SHIOJI disclose a continual still image photographing operation as recited in claim 9, such that modification of ANDERSON with the teachings of SHIOJI would result in the full combination of features recited in claim 9.

SHIOJI does not disclose the continual still image photographing operation as recited in claim 9. In this regard, the outstanding rejection is partially premised upon the assertion that a

motion image in SHIOJI results from a continual still image photographing operation as recited in claim 9. However, there is no teaching in SHIOJI of an interval time set by an operator for the motion image. Rather, the frame rate in SHIOJI is dependent upon, e.g., the CCD imager 1 and the digital signal processing circuit 5 (see col. 5, lines 22-33). Accordingly, even if a motion image in SHIOJI were properly considered to result from a continual still image photographing operation, the motion image in SHIOJI is not properly considered to result from the continual still image photographing operation recited in claim 9 (i.e., in which the plurality of discrete images are taken at an interval time set by an operator).

Further, SHIOJI does not disclose that a unique indicator is used to determine whether a plurality of discrete images were obtained in a continual still image photographing operation. Rather, SHIOJI discloses, at column 7, lines 4-15 and column 11, lines 3-12, that a reproduce mode select switch 22 is used to select a still image reproduce mode and a motion image reproduce mode. Accordingly, the determination at S61 in SHIOJI is based upon input from the reproduce mode select switch 22, and not on any unique indicator as recited in claim 9. Thus, SHIOJI does not disclose or suggest the features of the determination processor and the image processor recited in claim 9.

Further, as explained above, the motion image in SHIOJI is not properly considered to result from the continual still image photographing operation recited in claim 9. For this additional reason, modification of ANDERSON with the teachings of SHIOJI would not result in a determination processor that determines whether the plurality of discrete images were obtained in a continual still image photographing operation [in which the plurality of discrete images are taken at an interval time set by an operator]. Further, for this additional reason, modification of ANDERSON with the teachings of SHIOJI would not result in an image

processor that continually reproduces a plurality of discrete images, as a common operation on a plurality of discrete images, at a same interval as that of a continual still image photographing operation [in which the plurality of discrete images are taken at an interval time set by an operator], when it is determined, using a unique indicator, that the plurality of discrete images were obtained in the continual still image photographing operation [in which the plurality of discrete images are taken at an interval time set by an operator].

Accordingly, even if a determination processor and an image processor were properly considered to be disclosed in SHIOJI, such features are not properly considered to be the determination processor and image processor recited in claim 9 (i.e., which are configured to operate on the basis of a continual still image photographing operation [in which the plurality of discrete images are taken at an interval time set by an operation] and which relate to determining using a unique indicator that a plurality of discrete images were obtained in the continual still image photographing operation). Therefore, even assuming that the combination of the teachings of ANDERSON and SHIOJI is proper, such combination would not result in the combination of features recited in claim 9.

Further, the object of ANDERSON is to provide easily identifiable image groups of related images, including user-created groups. However, the proposed modifications to ANDERSON would not contribute to this objective. In this regard, the Examiner's Answer asserts that one would be motivated to reproduce the time-lapse image using the same speed at which it was captured. Notwithstanding this assertion, ANDERSON discloses that the processed images are stored on a removable memory 354, and that I/O 348 permits an external host computer (not shown) to connect to and communicate with computer 118 of the camera 110. Accordingly, even if the Examiner's asserted motivation were taken as true, ANDERSON

suggests that any post image-capture reproduction would occur on an external device such as an external host computer or an external device which receives the removable memory 354. In other words, there is no proper motivation to modify the camera 110 of ANDERSON in the manner asserted in the Examiner's Answer, i.e., to include the determination processor or the image processor recited in claim 9.

Accordingly, there is no proper motivation in the prior art to perform each of the numerous modifications to ANDERSON that are acknowledged to be necessary to obtain the combination of elements recited in the pending claims. Rather, the only motivation to modify ANDERSON in the manner necessary to obtain the pending claims is the improper motivation to obtain the pending claims in hindsight. Further, as explained above, even the combination of ANDERSON and SHIOJI would not result in the combination of features recited in claim 9. Therefore, at least for each and all of the numerous reasons set forth above, the decision of the Examiner to reject claims 9-10 and 12-14 over ANDERSON in view of SHIOJI should be reversed.

Rejection of Claims 15 and 16 Under 35 U.S.C. §103(a) over ANDERSON in view of SHIOJI

Similar to the above-noted features recited in claim 9, claim 15 recites a "memory that stores, for each of said plurality of discrete images, a unique indicator that indicates whether said discrete image was sequentially recorded in the continual still image photographing operation, wherein the unique indicator enables the plurality of discrete images to be continually displayed as discrete images at a same interval as that of said continual still image photographing operation".

The above-noted features of claim 15 are not disclosed, suggested or rendered obvious by ANDERSON in view of SHIOJI, at least for reasons similar to the above-noted reasons for the allowability of claim 9 over ANDERSON in view of SHIOJI. In this regard, the Examiner's Answer acknowledges that ANDERSON does not disclose that the unique indicator enables the plurality of discrete images to be continually displayed as discrete images at the same interval as that of a continual image photographing operation in which they were taken. However, the Examiner's Answer asserts that the above-noted features of claim 15 are disclosed by SHIOJI.

As explained above with respect to the similar features recited in claim 9, SHIOJI does not disclose a unique indicator that indicates whether a discrete image was sequentially recorded in the continual still image photographing operation, where such a unique indicator enables the plurality of discrete images to be continually displayed as discrete images at a same interval as that of a continual still image photographing operation. Rather, SHIOJI discloses, at column 7, lines 4-15 and column 11, lines 3-12, that a reproduce mode select switch 22 is used to select a still image reproduce mode and a motion image reproduce mode.

Accordingly, even the modification of ANDERSON with the teachings of SHIOJI would not result in the above-noted recitations in the combination of claim 15, at least insofar as the above-noted features are acknowledged to be absent from ANDERSON, and at least insofar as SHIOJI itself does not itself provide such features. Therefore, at least for each and all of the reasons set forth above, the decision of the Examiner to reject claim 15-16 over ANDERSON in view of SHIOJI should be reversed.

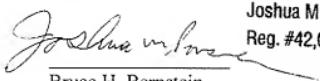
Therefore, Appellant again submits that the applied art of record fails to disclose or suggest the unique combination of features recited in Appellant's claims 9-10 and 12-16 under 35 U.S.C. § 103(a). Accordingly, Appellant respectfully requests that the Board reverse the

decision of the Examiner to reject claims 9-10 and 12-16 under 35 U.S.C. § 103(a) and remand the application to the Examiner for allowance.

Thus, Appellant respectfully submits that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. §103(a), and that the present application and each pending claim are allowable over the prior art of record.

If there are any questions about this application, any representative of the U.S. Patent and Trademark Office is invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,
Koichi SATO



Joshua M. Povsner
Reg. #42,086

Bruce H. Bernstein
Reg. No. 29,027

December 28, 2006
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191